

"PART B—INDIVIDUAL MARKET RULES

"SEC. 2741. GUARANTEED AVAILABILITY OF INDIVIDUAL HEALTH  
42 USC 500gg  
INSURANCE COVERAGE TO CERTAIN INDIVIDUALS WITH 41  
PRIOR GROUP COVERAGE.

"(a) GUARANTEED AVAILABILITY.—

"(1) IN GENERAL.—Subject to the succeeding  
subsections  
of this section and section 2744, each health  
insurance issuer  
that offers health insurance coverage (as defined  
in section  
2791(b)(1)) in the individual market in a State may  
not, with  
respect to an eligible individual (as defined in  
subsection (b))  
desiring to enroll in individual health insurance  
coverage—

"(A) decline to offer such coverage to, or deny  
enroll-  
ment of, such individual; or  
"(B) impose any preexisting condition  
exclusion (as  
defined in section 2701(b)(1)(A)) with respect to  
such cov-  
erage.

"(2) SUBSTITUTION BY STATE OF ACCEPTABLE  
ALTERNATIVE  
MECHANISM.—The requirement of paragraph (1) shall  
not apply  
to health insurance coverage offered in the  
individual market  
in a State in which the State is implementing an  
acceptable  
alternative mechanism under section 2744.

"(b) ELIGIBLE INDIVIDUAL DEFINED.—In this part, the  
term

eligible individual means an individual—

"(1)(A) for whom, as of the date on which the  
individual  
seeks coverage under this section, the aggregate  
of the periods  
of creditable coverage (as defined in section  
2701(c)) is 18  
or more months and (B) whose most recent prior  
creditable  
coverage was under a group health plan,  
governmental plan,  
or church plan (or health insurance coverage  
offered in connec-  
tion with any such plan):

"(2) who is not eligible for coverage under (A)  
a group  
health plan, (B) part A or part B of title XVIII of  
the Social  
Security Act, or (C) a State plan under title XIX  
of such Act  
(or any successor program), and does not have  
other health  
insurance coverage:

"(3) with respect to whom the most recent  
coverage within  
the coverage period described in paragraph (1)(A)  
was not  
terminated based on a factor described in  
paragraph (1) or

(2) of section 2712(b) (relating to nonpayment of premiums or fraud):

"(4) if the individual had been offered the option of continuation coverage under a COBRA continuation provision or under a similar State program, who elected such coverage: and

"(5) who, if the individual elected such continuation coverage, has exhausted such continuation coverage under such provision or program

~~§(c) ALTERNATIVE COVERAGE PERMITTED WHERE NO STATE MECHANISM~~

"(1) IN GENERAL. ~~In~~ In the case of health insurance coverage offered in the individual market in a State in which the State is not implementing an acceptable alternative mechanism under section 2744, the health insurance issuer may elect to limit the coverage offered under subsection (a) so long as it offers at least two different policy forms of health insurance coverage both of which ~~h~~